

REMARKS

Claims 1 – 15 and 17 – 20 remain in the present application.

Claims 1 and 15 – 19 continue to be rejected as being allegedly unpatentable over Eguchi. The Examiner cites Column 1, lines 18 – 45 of Eguchi, which is the Description of Background Art, namely a discussion of Japanese Patent Application First Publication No. Showa 63-82875 published April 13, 1988. The Examiner states that Eguchi is deficient, in that, it fails to teach, “signals a rejection if any of the plurality of signals is found to be invalid”. The applicants agree. However, the cited reference is also deficient, in that, it fails to teach “receiving a plurality of signals indicative of said *rear* steering angle”, emphasis added. More specifically, “in which an occurrence in failure of a steering angle sensor used in a power assisted control for the steering of *front* road wheels ...”, column 1, lines 21 – 24 of Eguchi, emphasis added. This is further supported in U.S. Patent No. 4,972,320 (which was previously submitted in an Information Disclosure Statement) which is the U.S. Patent corresponding to Japanese Patent Application First Publication No. Showa 63-82875 published April 13, 1988. The Examiner is incorrect in stating that “Eguchi discloses receiving a plurality of signals indicative of the *rear* steering angle ...”, page 2, section 5 of the Office Action, emphasis added. Clearly, Eguchi’s teaching with respect to a front wheel steering assist system has no relevance to validating a rear steering angle as recited in the present invention.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). Establishing a *prima facie* case of obviousness requires that all elements of the invention be disclosed in the prior art. *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970). Further, even assuming that all elements of an invention are disclosed in the prior art, an Examiner cannot establish obviousness by locating references that describe various aspects of a patent applicant’s invention without also providing evidence of the motivating force which would have impelled one skilled in the art to do what the patent applicant has done. *Ex parte Levengood*, 28 U.S.P.Q. 1300 (Bd. Pat. App. Int. 1993). The references, when viewed by themselves and not in retrospect,

must suggest the invention. *In Re Skoll*, 187 U.S.P.Q. 481 (C.C.P.A. 1975).

Section 103 sets out the test for obviousness determinations. It states, in pertinent part, that such determinations are to be made by consideration of

... the differences between subject matter sought to be patented and the prior art such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the [pertinent] art.

In applying Section 103, the U.S. Court of Appeals for the Federal Circuit has consistently held that one must consider both the invention and the prior art "as a whole," not from improper hindsight gained from consideration of the claimed invention. See, *Interconnect Planning Corp. v. Feil*, 227 U.S.P.Q. 543, 551 (Fed. Cir. 1985) and cases cited therein. According to the *Interconnect* court

[n]ot only must the claimed invention as a whole be evaluated, but so also must the references as a whole, so that their teachings are applied in the context of their significance to a technician at the time - a technician without our knowledge of the solution.

*Id.* Also critical to this Section 103 analysis is that understanding of "particular results" achieved by the invention. *Id.*

In response to the above arguments the Examiner states that (1) "how the system operates is irrelevant to what axle the invention is installed on", (2) "the fact that Eguchi cites this invention as background of his invention of a rear wheel steering system is an implicit acknowledgement that the front wheel system of the background could be used on a rear wheel system", and (3) "when a vehicle is driven in reverse, the front wheels and rear wheels trade places so any vehicle with the system disclosed in the background of the invention would read on the current invention when the vehicle is driven in reverse".

Comments (1) and (2) are discussed together. Which axle is important to the present invention, as it is directed to "a rear steering angle of a vehicle". For most vehicles only the front wheels steer, however the present invention is directed to vehicles where the rear wheels also steer. The Examiner states that it would be obvious to install the front wheel system of the Japanese Patent Application First Publication No. Showa 63-82875 on the rear wheels because it is cited in a patent directed to rear wheel steering.

There is simply no motivation to do what the Examiner suggest, in fact, Eguchi teaches that the front wheel system of the Japanese Patent Application First Publication No. Showa 63-82875 is not suitable for the rear wheels, see generally column 6, lines 17 – 57 of Eguchi. In light of these teachings, the only suggestion to install the front wheel system of the Japanese Patent Application First Publication No. Showa 63-82875 on the rear wheels is by the Examiner using the present invention, i.e., an improper hindsight rejection. Accordingly, the Examiner is respectfully requested to reconsider his position on these issues.

Comment (3) suggests that the front and rear wheels change depending on the direction of the vehicle. This is simply not true. The rear of the vehicle is the rear of the vehicle whether it is going forward or in reverse. The physical configuration of the vehicle does not change because of the direction of travel. Accordingly, the Examiner is respectfully requested to reconsider his position on this issue.

Therefore, applicant submits that claims 1 and 15 – 19 patentably define over Eguchi, whereby reconsideration and allowance thereof are respectfully requested.

Allowance of claim 20 and indication that claims 2 – 14 contain allowable subject matter are recognized and appreciated. However, it is noted that claim 2 is an independent claim, whereby claims 2 – 24 should have been indicated to be allowed, clarification thereof is respectfully requested

Accordingly, as the cited references neither anticipate nor render obvious that which the applicant deems to be the invention, it is respectfully requested that claims 1 – 15 and 17 – 20 be passed to issue.

If there are any additional charges with respect to this Amendment or otherwise,  
please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorney.

Respectfully submitted,

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